

HOA conflict makes way to bankruptcy court

Association makes 'rare' move as it is facing mounting legal fees in homeowners' lawsuit

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The conflicts and disputes that rile up homeowners associations have made their way into the Colorado legislature, where lawmakers have sought reforms. Now a dispute between an HOA and its members has made its way to an unlikely arena: U.S. bankruptcy court.

The HOA at Todd Creek Farms, an up-scale subdivision west of Brighton in Adams County, filed for Chapter 11 bankruptcy July 15. The reason, said board president Jason Pardikes, is to "stop the bleeding."

The bankruptcy filing, first reported by BusinessDen, follows years of turmoil that include anger over changes to the HOA's covenants, a disputed swap of board members' terms and allegations that Pardikes has financial ties to a landscaping company hired by the association.

The bleeding that Pardikes referred to is the money paid by the HOA to fight a lawsuit by the owners of 21 homes, roughly 5% of the 370 homes at Todd Creek Farms. The lawsuit filed in 2023 claims the swap of two board members' terms violated the HOA bylaws and code of conduct.

The board also failed to disclose HOA records as required and documents in the court case and failed to carry out its fiduciary duties in its handling of the contract with Method Landscaping Services, the lawsuit said. For now, though, the lawsuit is on hold while the bankruptcy court decides the way forward.

"There's not going to be movement on the state court case until or unless the bankruptcy court gives the blessing for such," said Peter Towsky, the attorney representing the homeowners who sued. "I know the HOA filed for bankruptcy to stop the prosecution of the state court case. The question is whether or not there are actual solvency issues that justify the bank filing."

A July 19 message from the HOA board to homeowners disputed a claim by plaintiffs in the lawsuit that filing for Chapter 11 reorganization was a delay tactic. The decision is "an end tactic, and it's the only viable path to protect all homeowners from continued legal exposure," the board said.

Pardikes told The Denver Post that with legal fees from the lawsuit averaging at least \$40,000 a month, the HOA would have been unable to pay for services this month. "We are closing in on \$900,000 in attorneys' fees since this case started 27 months ago."

If the court approves the reorganization, the HOA can resume payments to residents from the oil and gas drilling on the subdivision's property, Pardikes said. The money is being used to pay legal expenses.

Asked if he knew how common HOA bankruptcies are, Towsky said, "At the very least, I would venture to say it's exceedingly rare."

A state agency that fields complaints and questions about HOAs and tracks trends for legislators hasn't heard much about associations going bankrupt. The state doesn't require HOAs to report bankruptcies and the issue doesn't come up often with people contacting the Colorado HOA Information and Resource Center, said David Donnelly, an education, communication and policy manager with the Department of Regulatory Agencies.

The state doesn't regulate HOAs. Most of the associations are nonprofits governed by covenants and a board of homeowners elected by the other homeowners. The Colorado Common Interest Ownership Act spells out basic standards and requirements.

At least 40% of Coloradans live in HOAs, which collect assessments for maintaining common areas and insurance and have the power to fine homeowners for violations of rules. Lawmakers have passed laws to protect homeowners when they think HOAs have gone too far. Legislators have moved to prevent the associations from foreclosing on homes because of late fees, fines or legal bills.

Pardikes said he has endorsed state laws to reform how HOAs are governed. In a 2024 interview, Pardikes, first elected to the board in 2019, said he and other members pushed for updating their bylaws. The changes included a ban on foreclosures for violating the rules and limiting the amount of interest on fines. He said there were 14 liens on people's homes that should have been released.

After he joined the board, Pardikes settled a lawsuit with the HOA over deductions from his account that he said were never explained. He blames the current lawsuit against the HOA on personal grievances by former board members, some of whom are plaintiffs.

Trail of lawsuits

A previous lawsuit by one resident challenging the covenant changes was dismissed in 2022. A similar complaint was filed when the required 5% of the homeowners signed on. Pardikes shared emails showing efforts among residents to line up enough people to file the lawsuit in Adams County District Court.

In depositions by attorneys for the HOA, some plaintiffs said they didn't have firsthand knowledge of various allegations in the lawsuit. Pardikes said previous board members, including plaintiffs in the lawsuit, participated in the kind of swap of board seats that critics said was a ploy for him to extend his time in office. He was re-elected to the board in February.

Independent audits from 2020 to 2024 found no financial irregularities under the current board, Pardikes said. Homeowners have re-elected current board members in three consecutive elections, with record-high participation this year, he added.

Pardikes also denied the lawsuit's claim that he is connected to Method Landscaping Services, a company hired by the HOA.

But the lawsuit said based on bank records in an Adams County Sheriff's investigative report, "numerous financial transactions flowed from the HOA to Method Landscape Services" and then to the accounts of Pardikes and his wife.

Towsky said his clients filed a motion to get a fully unredacted copy of the investigative report, but a judge sealed it. The lawsuit said HOA information listed ground maintenance payments for \$224,529.35 in 2020 despite a contract calling for payment of only \$26,677.05.

"We believe that Jason Paradikes, president of the HOA, benefitted to the tune of well over \$100,000, it's fair to say over \$150,000, from the money that Method Landscaping Services was paid by Todd Creek Farms HOA," Towsky said.

The lawsuit's plaintiffs had access to contracts showing that the HOA paid the landscaping company \$219,000 for work, including redoing a trails system, Pardikes said. In May, his attorney filed notice of intent to sue the Adams County Sheriff's Office and the detective who investigated claims of theft from Todd Creek Farms by Pardikes.

The detective said criminal charges couldn't be filed in the case "because the landscaper actually conducted some of the work according to many of the residents," Adams County Sheriff's Sgt. Adam Sherman said in an email. "So although the situation seems unethical, it's not illegal."

Towsky said his clients are frustrated by the delay in resolving their lawsuit.

"They believe this is just another act in a long pattern of behavior sought to avoid accountability," Towsky said. "The plaintiffs believe there needs to be accountability."

Pardikes said just "a small minority" of the community has pursued the lawsuit. He said 52% of the community has signed petitions saying the plaintiffs don't represent them.